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**RFG/Anti-Dumping
Questions and Answers
May 9, 1995**

Fuels and Energy Division
Office of Mobile Sources
U.S. Environmental Protection Agency

RFG/ANTI-DUMPING QUESTIONS AND ANSWERS, MAY 9, 1995

The following are responses to most of the questions received by the Environmental Protection Agency (EPA) through April 25, 1995, concerning the manner in which the EPA intends to implement and assure compliance with the reformulated gasoline and anti-dumping regulations at 40 CFR Part 80. This document was prepared by EPA's Office of Air and Radiation, Office of Mobile Sources, and Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement, Air Enforcement Division.

Regulated parties may use this document to aid in achieving compliance with the reformulated gasoline (RFG) and anti-dumping regulations. However, this document does not in any way alter the requirements of these regulations. While the answers provided in this document represent the Agency's interpretation and general plans for implementation of the regulations at this time, some of the responses may change as additional information becomes available or as the Agency further considers certain issues.

This guidance document does not establish or change legal rights or obligations. It does not establish binding rules or requirements and is not fully determinative of the issues addressed. Agency decisions in any particular case will be made applying the law and regulations on the basis of specific facts and actual action.

While we have attempted to include answers to all questions received by April 25, 1995, the necessity for policy decisions and/or resource constraints may have prevented the inclusion of certain questions. Questions not answered in this document will be answered in a subsequent document. Questions that merely require a justification of the regulations, or that have previously been answered or discussed either in a previous Question and Answer document or the Preamble to the regulations have been omitted.

Topics Covered

Downstream Oxygenate Blending
Registration, Reporting, Recordkeeping
Product Transfer Documentation
California Enforcement Exemptions
Anti-Dumping Requirements

DOWNSTREAM OXYGENATE BLENDING

1. **Question:** Regarding the requirement in § 80.69(a)(2) that refiners and importers blend a representative sample of an RBOB batch with refinery-specified oxygenate, the composition of specified oxygenate blended in the laboratory is likely to differ from the composition of oxygenate arriving at the blender terminal, in that smaller amounts of oxygenates may be present. May these smaller amounts of oxygenates be included for meeting the refiner's blending instructions where a particular oxygenate type has been specified by the refiner or importer?

Answer: EPA will not consider the refiner's blending instructions to be compromised where the specified oxygenate contains de minimis amounts of other oxygenates resulting in the RFG produced to contain other oxygenates in amounts no more than: 0.4 vol% ethanol, or 0.6 vol% MTBE, ETBE, TAME or t-butanol, or 0.2 vol% methanol. These exceptions apply only if the offending oxygenate is present as a result of operational necessity, and specifically would not apply if the offending oxygenate was intentionally added. See also the October 3, 1995 Question and Answer document, Prohibitions Section, Question 1, regarding the allowance of de minimis amounts other oxygenates in VOC-controlled RFG.

2. **Question:** Please correct § 80.69(e)(2)(v) to refer to § 80.65(e)(2)(i) instead of § 80.70(b)(2)(i).

Answer: This reference will be changed in a subsequent rulemaking.

REGISTRATION, REPORTING, RECORDKEEPING

1. **Question:** When reporting compliance parameters to EPA on the batch reports we are asked to report to a greater degree of precision than the regulations indicate for the standard. An example would be that the per-gallon oxygen content standard is supposed to be 2.0 weight percent. The EPA form asks for two places to the right of the decimal. Would we still be in compliance for the oxygen content if the reported value was 1.95 weight percent?

Answer: You would be in compliance for the example described above. In order to determine compliance EPA will round all values to the appropriate decimal place for the applicable standard. If the digit immediately to the right of the last appropriate decimal place for the standard is 5 to 9 the digit at that decimal place will be rounded up (1.95 will be rounded to 2.0.) If the digit immediately to the right of the appropriate decimal place for the standard is 0 to 4 the value should be truncated (rounded down) at the appropriate decimal place (1.94 will be rounded to 1.9.)

PRODUCT TRANSFER DOCUMENTATION

1. **Question:** EPA has indicated that a batch of RFG should be certified based on the volume shipped out of the refinery from the blending tank. However, where a blend is transferred to a storage tank after blending, the batch may be certified based on the volume transferred from the blending tank to the storage tank. In the latter instance, if an amount of gasoline that is different from the certified batch volume is then shipped out of the refinery from the storage tank, should the volume that is actually shipped out be included on the PTDs?

Answer: Yes.

CALIFORNIA ENFORCEMENT EXEMPTIONS

1. **Question:** Should the summer toxics model be used for RFG during the 1995 California VOC transition seasons (i.e., before May 1 and after September 15) when California regulations limit RVP to 7.8 psi?

Answer: RFG that is designated as VOC controlled by the refiner must use the summer model and must comply with the RVP standard for the appropriate VOC control region. RFG that is designated as non-VOC controlled by the refiner must use the winter model. Refiners may not designate RFG as VOC controlled unless it meets the federal RVP standard for VOC controlled RFG for the appropriate VOC control region. Consequently, California RFG produced to 7.8 psi for use outside the federal VOC control period (i.e., before May 1 and after September 15) would use the winter model.

ANTI-DUMPING REQUIREMENTS

1. **Question:** What documentation must a refiner or importer obtain to exclude exported gasoline from their compliance calculations per § 80.101(e)(4)?

Answer: Section 80.101(e)(4) does not designate any specific documentation required to exclude exported product from a refiner's or importer's compliance calculations. However, product transfer documents accompanying a product for export should clearly indicate that the product is intended for export only. In addition, refiners and importers of product intended for export should be able to provide some form of evidence that the product was, in fact, exported, such as a receipt from an exporter which includes a statement that the exporter purchased the particular product in question for export only, or other affirmative evidence from the transferee that would provide a reasonable basis to expect that the product in question was exported. Such evidence may be included on the routine business documents that memorialize the transaction between the parties. Regardless of the documentation, however, if the gasoline, in fact, was not exported, it may not be excluded from the refiner's or importer's compliance calculations.

[NOTE: The following is an update for question 9 from the Anti-Dumping section of the October 17, 1994 Question and Answer document, to clarify that refiners and importers who have baselines that are equal to the statutory baseline are not subject to the blendstock tracking or accounting requirements of § 80.102.]

9. **Question:** In the case of a company that did not import applicable blendstocks from 1990 through 1994, but begins to do so in 1995, must the company report those blendstocks as an importer in accordance with the requirements of § 80.102? Does the answer change if the company also is a domestic refiner, and uses the imported blendstocks to produce conventional gasoline?

Answer: Section 80.102 requires refiners and importers to track the volume of certain blendstocks that are produced or imported (blendstock tracking), and under certain circumstances to include in anti-dumping compliance calculations all blendstocks produced or imported (blendstock accounting). Under § 80.102(f)(1)(i), however, blendstock accounting is not required for refiners or importers who have a baseline that is less stringent than the statutory baseline for the parameter or emissions performance in issue. EPA now believes § 80.102(f)(1)(i) is incomplete and should apply both to refiners or importers who have a baseline that is equal to the statutory baseline, as well as to refiners and importers who have a baseline that is less stringent than the statutory baseline. This change to § 80.102(f)(1)(i) is consistent with, and is explained by, the discussion in the preamble to the RFG final rule, at 59 FR 7803-7804 (February 16, 1994). EPA intends to amend § 80.102(f)(1)(i) in a future rulemaking to reflect this change, and in the meantime parties may act in accordance with this answer.

In consequence, if the company described in the question has an importer baseline that is equal to or less stringent than the statutory baseline for each anti-dumping parameter, the company may import any types of blendstocks in any volumes without having to include blendstocks in their conventional gasoline compliance calculations, or meet the other requirements of § 80.102(e)(2). If, on the other hand, this company has an importer baseline that is more stringent than the statutory baseline for any anti-dumping parameter, the company would be subject to blendstock tracking (and blendstock accounting where required) in its importer capacity. These answers remain the same regardless of whether the company sells the blendstock following import, or uses the blendstock to produce gasoline at a refinery operated by the company.